
2002 Wis Eth Bd 04
LOCAL CODE – DISQUALIFICATION

The Ethics Board advises:

If a county's contract with a union will provide a significant precedent for a union contract in which a county board supervisor has a personal financial interest, then the supervisor should not participate in negotiations, discussions or votes on the former. If the effect of the county's contract on the contract covering the supervisor is merely conjectural or inconsequential, the supervisor may participate in decisions concerning that contract.

Facts

¶1 This opinion is based upon these understandings:

- a. You are a county Corporation Counsel.
- b. A member of the county board of supervisors is employed by a city within the county and is a member of the AFSCME union.

Question

¶2 The Ethics Board understands your question to be:

Does §19.59, *Wisconsin Statutes*, restrict the supervisor's involvement in labor negotiations or ratification of union contracts with AFSCME on behalf of the county?

Discussion

¶3 Section 19.59, *Wisconsin Statutes*, provides that no local public official may use his or her office or position to obtain anything of substantial value for the private benefit of the official or participate in a matter in which the official has a substantial financial interest.¹ A county board supervisor is a local public official.² The pertinent questions are:

¹ Section 19.59(1)(a) and (c), *Wisconsin Statutes*, provides:

19.59 Codes of ethics for local government officials, employees and candidates. (1)(a) No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated.

1. Would the supervisor's participation in the county's collective bargaining be likely to result in a personal benefit for the supervisor?
2. Does the supervisor have a personal substantial financial interest in the county's treatment of its contract?

¶4 If the county's contract will provide a significant precedent for a contract in which a local official has a personal interest, then the official should not participate in negotiations, discussions or votes on the former. 2002 Wis Eth Bd 1; 1997 Wis Eth Bd 6 ¶5; 1994 Wis Eth Bd 6 ¶7. If, however, the effect of the county's contract on the contract covering the official is merely conjectural or inconsequential, the official may participate in decisions concerning that contract. *See LeBow v. Optometry Examining Board*, 52 Wis.2d 569, 574 (1971); 2002 Wis Eth Bd 1; 1996 Wis Eth Bd 3 ¶5; 1995 Wis Eth Bd 4 ¶7; 1993 Wis Eth Bd 11 ¶5.

¶5 The effect one contract will have on another is a factual matter. Experience is one factor that would indicate whether a contract will have a precedential effect on the contract in which the official is interested.

Advice

¶6 The Ethics Board advises that the effect one contract will have on another is a factual matter. The factual assessment is important but is not one we can make for you. We can, however, equip you with framework for analysis: If the county's contract will provide a significant precedent for a contract in which the supervisor has a personal financial interest, then he should not participate in negotiations, discussions or votes on the former. If the effect of the county's contract on the contract covering the supervisor is merely conjectural or inconsequential, the supervisor may participate in decisions concerning that contract.

WR1120

* * *

(c) Except as otherwise provided in par. (d), no local public official may:

1. Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.
2. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

² See 1997 Wis Eth Bd 6, ¶6; 1999 Wis Eth Bd 01, ¶4.